

REMARKS

Claims 85-100 are pending in this application. The Office Action, on page 2, rejects claims 85-100 under 35 U.S.C. §103(a) over JP-A-63-17031 to Kogyo in view of CN 1270786 to Gueret. This rejection is respectfully traversed.

In view of the apparent misconception of Kogyo, as discussed below, Applicant respectfully requests that the finality of the Office Action be withdrawn.

Kogyo is directed to receptacles for cosmetics that are stacked on top of each other (Abstract). The Office Action asserts that Kogyo teaches many of the features recited in independent claim 85. The Office Action concedes that Kogyo fails to teach a receptacle body containing a substance with an applicator member secured to the receptacle body during application of the substance, with a closure cap that is configured to be removably fixed to the receptacle body wherein the receptacle body is of a different shape than the containers. Rather, the Office Action relies on Gueret to make up for this shortfall.

Gueret is directed to an applicator that comprises a support that is configured to allow the applicator to be engaged with a container containing a first product, in the form of a gel, cream or liquid in an application member on the support (Abstract). The Office Action asserts that it would have been obvious to one of ordinary skill to make the bottom of the lowest container of Kogyo such that it may form a closure cap to another receptacle and fit it to such a receptacle in view of Gueret in order to provide a device with a means for containing a different type of cosmetic. This analysis of the Office Action fails for at least the following reason.

Kogyo cannot reasonably be relied upon in the manner the Office Action suggests. Specifically, the Office Action asserts that element 12 taught in Kogyo can be considered to correspond to the recited lip. This assertion is unreasonable because element 12 in Kogyo is not a lip, but rather is described, in Kogyo, as a hole for engaging hinge pins 8. Kogyo

illustrates in Fig. 20 that hinge pins 8 are installed within mounting holes 13. Kogyo also describes element 12 as engagable mounting holes. Because element 12 is merely a mounting hole, it is unreasonable for the Office Action to assert that element 12 in Kogyo can be considered to correspond to the recited lip. Gueret fails to make up for this shortfall.

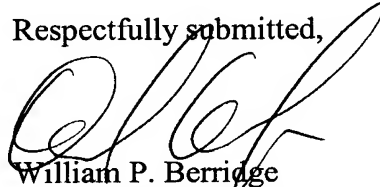
For at least the foregoing reason, no combination of Gueret with Kogyo would have rendered obvious the combination of features recited in independent claim 85. Further, dependent claims 86-100 would also not have been rendered obvious for at least the dependence of these claims on independent claim 85, as well as for the subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 85-100 under 35 U.S.C. §103(a) are respectfully requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 85-100 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Daniel A. Tanner, III
Registration No. 54,734

WPB:MJS/tqs

Date: December 22, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry of this filing; Charge any fee due to our Deposit Account No. 15-0461</p>
